

AMENDED IN ASSEMBLY JUNE 16, 2004

AMENDED IN SENATE APRIL 16, 2004

AMENDED IN SENATE MARCH 23, 2004

**SENATE BILL**

**No. 1273**

**Introduced by Senator Scott**

February 13, 2004

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An act to amend ~~Section~~ *Sections 780, 781, and 782* of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1273, as amended, Scott. Insurance: misrepresentations.

*Existing law prohibits an insurer or his or her agent from issuing, circulating, or using any misrepresentation of the terms of a policy issued by the insurer or sought to be negotiated by the person making or permitting the misrepresentation, or from making any misrepresentation to another person for the purpose of inducing that other person to take out a policy of insurance or to induce that other person to lapse, forfeit, or surrender insurance in a policy he or she holds.*

Existing law provides that ~~it a violation of these provisions~~ is a crime, punishable by a fine not exceeding \$1,500, or imprisonment in a county jail for a period not exceeding 6 months, ~~for an insurer or his or her agent, to issue, circulate, or use any misrepresentation of the terms of a policy issued by the insurer or sought to be negotiated by the person making or permitting the misrepresentation, or to make any misrepresentation to another person for the purpose of inducing that other person to take out a policy of insurance or to induce that other~~

~~person to lapse, forfeit, or surrender insurance in a policy he or she holds.~~

*This bill would, instead, prohibit the above actions with respect to any statement that is known, or should have been known, to be a misrepresentation. Because this bill would change the definition of a crime, it would impose a state-mandated local program.*

This bill would ~~instead~~ provide that a ~~knowing~~ violation of these provisions is punishable by a fine of up to \$25,000, or if the loss of the victim exceeds \$10,000, by a fine of up to 3 times that loss, by imprisonment in a county jail for a period of up to one year, or by both a fine and imprisonment.

~~Because this bill would change the definition of a crime, it would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 780 of the Insurance Code is amended*  
2 *to read:*

3 780. An insurer or officer or agent thereof, or an insurance  
4 broker or solicitor shall not cause or permit to be issued, circulated  
5 or used, any *statement that is known, or should have been known,*  
6 *to be a* misrepresentation of the following:

7 (a) The terms of a policy issued by the insurer or sought to be  
8 negotiated by the person making or permitting the  
9 misrepresentation.

10 (b) The benefits or privileges promised thereunder.

11 (c) The future dividends, payable thereunder.

12 SEC. 2. *Section 781 of the Insurance Code is amended to*  
13 *read:*

14 781. (a) A person shall not make any *statement that is*  
15 *known, or should have been known, to be a* misrepresentation ~~(a)~~  
16 *(1)* to any other person for the purpose of inducing, or tending to

1 induce, such other person either to take out a policy of insurance,  
2 or to refuse to accept a policy issued upon an application therefor  
3 and instead take out any policy in another insurer, or

4 ~~(b) To (2) to a policyholder in any insurer for the purpose of~~  
5 inducing or tending to induce him *or her* to lapse, forfeit or  
6 surrender his *or her* insurance therein.

7 (b) A person shall not make any representation or comparison  
8 of insurers or policies to an insured which is misleading, for the  
9 purpose of inducing or tending to induce him *or her* to lapse,  
10 forfeit, change or surrender his *or her* insurance, whether on a  
11 temporary or permanent plan.

12 SEC. 3. Section 782 of the Insurance Code is amended to read:

13 782. Any person who ~~knowingly~~ violates the provisions of  
14 Section 780 or 781 is punishable by a fine not exceeding  
15 twenty-five thousand dollars (\$25,000), or in a case in which the  
16 loss of the victim exceeds ten thousand dollars (\$10,000), by a fine  
17 not exceeding three times the amount of the loss suffered by the  
18 victim, *by* imprisonment in a county jail for a period not to exceed  
19 one year, or by both a fine and imprisonment. Restitution to the  
20 victim ordered pursuant to Section 1202.4 of the Penal Code shall  
21 be satisfied before any fine imposed by this section is collected.

22 ~~SEC. 2.~~

23 SEC. 4. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.